



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,979	06/07/2001	Michael D. Anderson	025304-0103	5988

7590 11/20/2002

Glenn Law
FOLEY & LARDNER
Washington Harbour
3000 K Street, N.W., Suite 500
Washington, DC 20007-5109

EXAMINER

GORDON, STEPHEN T

ART UNIT	PAPER NUMBER
----------	--------------

3612

DATE MAILED: 11/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application 09/874,979	Applicant(s) Anderson et al	
	Examiner Gordon	Art Unit 3612	Confirmation No.

- The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address -

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 10-3-02
- ☐ This action is FINAL. ☒ This action is non-final.
- ☐ Since this application is in condition for allowance except for the formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-29 is/are pending in this application.
- Of the above claim(s) 2, 16-21 + 29 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1, 3-15 + 22-28 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved or ☐ disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.
- ☐ The drawing(s) filed on _____ is/are ☐ accepted or ☐ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d) or (f).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____.
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- *Certified copies not received:
- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- ☐ The translation of the foreign language provisional application has been received.
- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 2-5
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Art Unit: 3612

DETAILED ACTION

1. Claims 2, 16-21, and 29 are withdrawn from further consideration pursuant to 37

CFR 1.142(b) as being drawn to a nonelected invention. Election was made without traverse in Paper No. 7.

2. The drawings are objected to because label 145 on figure 8 should apparently be --147--.

Additionally, label 147 on figure 8 should apparently be --143--. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The disclosure is objected to because of the following informalities: "1910" on page 15 - line 13 should be --1940--.

Appropriate correction is required.

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the dimensions recited in claims 11, 12, 13, and 28 are not described in the instant specification text.

5. Claims 4 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 4, "the horizontal plane" lacks clear antecedent basis and could be written as --a horizontal plane-- for clarity as best understood.

Art Unit: 3612

~~Re~~ claim 27, "the cargo bed of a pickup truck" is confusing and could be written as --a cargo bed of the truck and wherein the truck is a pickup truck-- for clarity as best understood.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

7. Claims 1, 3, 4, 6-9, 11-13, and 22-28, as best understood, are rejected under 35

U.S.C. 102(b) as being anticipated by Bott '973.

Bott teaches a cargo carrying truck including an integral tie down track 26 attached to the truck body such that the exterior contour of the track does not extend beyond the contour of adjacent portions of the body - see figures 2, 3, etc.

Re claim 3, see fitting 40.

Re claim 4, the track does not extend beyond the recited plane as best understood and as broadly claimed.

Re claim 6, the track is located in the bed and is longitudinally oriented as broadly claimed.

Re claim 7, note the apparatus includes several tracks configured as defined - see figure 1 etc.

Art Unit: 3612

Re claim 8, the track is located in the bed sidewall and is longitudinally oriented as broadly claimed.

Re claim 9, note the apparatus includes several tracks configured as defined - see figure 1 etc.

Re claims 11-13 and 28, the track is configured as broadly claimed.

Re claim 22, the fitting 40 is releasable as broadly recited.

Re claim 23, the device includes a configuration with a slot oriented as broadly claimed.

Re claim 24, the tracks are located as broadly claimed.

Re claim 25, note the apparatus includes several tracks configured as defined - see figure 1 etc.

Re claim 26, the track is configured as broadly claimed.

Re claim 27, the track is located as broadly claimed.

8. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Ellis.

Ellis teaches a cargo carrying truck including an integral tie down member 27,32+ (readable on a track as broadly claimed) attached to the truck body such that the exterior contour of the track does not extend beyond the contour of adjacent portions of the body - see figure 1 etc.

Re claim 5, note the track member positioned at the front of the bed - figure 1.

9. Claims 1, 5, 14, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Dunlop.

Art Unit: 3612

Dunlop teaches a cargo carrying truck including an integral tie down track 26+ attached to the truck body such that the exterior contour of the track does not extend beyond the contour of adjacent portions of the body as broadly claimed - see figure 4 etc.

Re claim 5, note the track member positioned at the front of the bed - figure 1.

Re claim 14, the track is flush as broadly claimed.

Re claim 15, the track slot is flush as broadly claimed.

10. Claims 1, 4 (as best understood), 14, 15, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Bott '298.

Bott teaches a cargo carrying truck including an integral tie down track 62+ (figure 6) attached to the truck body such that the exterior contour of the track does not extend beyond the contour of adjacent portions of the body as broadly claimed.

Re claim 4, the track does not extend beyond the recited plane as best understood and as broadly claimed.

Re claim 14, the track is flush as broadly claimed.

Re claim 15, the track slot is flush as broadly claimed.

Re claim 22, the fitting 76 is releasable as broadly recited.

11. Claims 1 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Bradley.

Bradley teaches a cargo carrying truck including an integral member 32+ readable on a tie down track as broadly claimed which is attached to the truck body such that the exterior contour

Art Unit: 3612

of the track does not extend beyond the contour of adjacent portions of the body as broadly claimed.


Re claim 10, the track is supported as broadly claimed.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note at least Price teaches a tie down track system which is convertible for different uses/attachments.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (703) 308-2556.

stg

November 15, 2002 •


STEPHEN T. GORDON
PRIMARY EXAMINER